

COUNTY OF YORK

MEMORANDUM

DATE: August 29, 2003 (BOS Mtg. 9/16/03)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Slaughter's Wharf and Shirley Road – Proposed Abandonment of Right-of-Way and Public Landing

Issue

Seaford Scallop Company, Inc. has requested that the Board of Supervisors take the necessary actions to abandon Slaughter's Wharf and the adjacent Shirley Road right-of-way. This request is detailed in the attached letter dated March 25, 2003 from their attorney, Conway H. Sheild.

Slaughter's Wharf is a VDOT-owned pier that is located on Back Creek at the end of Shirley Road. The Shirley Road right-of-way terminates at this pier and is essentially indistinguishable from the Seaford Scallop Company and Wells Ice and Cold Storage parking areas and drives that surround it on both sides (see attached map). Seaford Scallop Company is requesting this abandonment, which must be acted on both by the County and VDOT, in order to help facilitate the expansion of its docking facilities along Back Creek and to allow the companies' facilities to be better secured.

Seaford Scallop Company has requested that this action be considered in accordance with the terms of Section 33.1-151 of the Code of Virginia. This section provides that the Board of Supervisors may abandon a road or public landing, after public notice, when it determines that no public necessity exists. This matter was brought to the Board's attention in my Priority Correspondence memorandum dated April 11, 2003 and the Board subsequently directed that staff proceed with the notifications required by the State Code. Pursuant to those requirements, notice was published in the Daily Press on June 5 and 6, 2003 and also posted at the Courthouse. Notice was also given to the Commonwealth Transportation Commissioner and, since a public landing is involved, to the Department of Game and Inland Fisheries. One person requested information concerning the proposal, but no one requested a public hearing. In addition, as required by Code, the Department of Game and Inland Fisheries has provided a resolution (attached) indicating that it concurs in the abandonment of the public landing.

Having met all the procedural prerequisites, this matter is now ready for formal consideration and action by the Board of Supervisors. Accordingly, proposed Resolution No. R03-154 is attached.

Considerations

1. The wharf/pier at the end of Shirley Road is operated by VDOT as part of the

Secondary System of state highways. Former State Highway Commissioner H.G. Shirley donated title to the shoreline on which the dock is located and an adjacent ½-acre of land to the state over 70 years ago. The dock and the adjacent roadway were constructed/improved to support a Corps of Engineers' dredging project for the Thorofare (between Back Creek and the York River) and they have been maintained by VDOT ever since. Given current dredging methods and the difficulty of securing and permitting on-land dredge spoil disposal sites, staff does not believe this route would be needed in the event of any future Thorofare dredging project.

2. Seaford Scallop's business history and its reasons for requesting the abandonment are documented in the attached letter from Mr. Sheild. As noted, the company has a need for additional docking space and, to that end, has recently acquired the adjacent property to the west (formerly Greenwood) with the intention of requesting rezoning of its eastern half and extending new docking facilities along a portion of its shoreline. The requested abandonment would allow some of the docking demand to be met at the existing pier and the upstream extension of new pier space to be minimized. Also, it would allow consolidation of the Seaford Scallop and Wells Ice and Cold Storage operations along a continuous segment of the Back Creek shoreline. It should be noted that the existing pier is not well-suited for recreational vessel docking.
3. This is not the first time that Seaford Scallop has requested either abandonment or discontinuance of the dock and right-of-way. In 1989 and again in 1992 and 1993, the County and VDOT considered Seaford Scallop's requests. In each of those instances, VDOT opposed the abandonment. Because of VDOT's opposition the Board of Supervisors never took formal action on any of the requests. Notably different in 2003 is VDOT's support of the proposal since it would eliminate a maintenance liability (according to Steven Hicks, Resident Engineer). In addition, Seaford Scallop has proposed two mitigation alternatives (see #2 on page 3 of Sheild letter) which address replacement / compensation regarding the public access issues associated with the dock.
4. The mitigation options proposed by Seaford Scallop are:
 - Construction of a small pier extending from the former Greenwood property accompanied by a 15-foot wide accessway and two parking spaces, all of which would be donated to the County; or
 - Donation of an in-lieu fee equal to the cost of the abovementioned land and improvements, which the County could then use to improve public access at another location. Based on the appraised value of the access easement and the estimated cost of the pier construction, Seaford Scallop has proposed to offer a donation of \$27,800 to the County under this option (see attached letter dated August 14, 2003 from William B. Ellen).

Conclusions

I believe that Seaford Scallop's request is worthy of consideration and approval. Based on all accounts, there is minimal (at most) public use of the existing state dock. It is a maintenance liability for VDOT (and could divert scarce VDOT maintenance funds from other critical needs in the County) and stands in the way of the efficient consolidation of operations for a major County business establishment. With respect to the mitigation options proposed for consideration, I believe that the latter (the in-lieu contribution) would be the best alternative to pursue since there would be minimal public benefit from access (for fishing or observation) to an industrial waterfront (either the current pier or a replacement). Instead, the in-lieu cash contribution would allow the Board to consider numerous options for improving other existing public access points (for example, one option might be to consider using it to improve fishing accommodations at the existing Yorktown Pier). Finally, the proposal offers the opportunity to have a VDOT-standard turnaround constructed at the end of Shirley Road, thus eliminating the need for public vehicles to turn in what is essentially an industrial operation parking lot. This would also allow Seaford Scallop and Wells Ice and Cold Storage to secure their operations with a gate and fence to minimize risk of vandalism (which has been a significant problem in the past).

Recommendation

I recommend that the Board adopt proposed Resolution No. R03-154 to approve the abandonment of Slaight's Wharf and the subject segment of the Shirley Road right-of-way. If approved by the Board, the Resolution will be transmitted to VDOT and Seaford Scallop/Wells Ice and Cold Storage and VDOT will enter into negotiations for transfer of the abandoned right-of-way.

Carter/3337

Attachments

- Letter dated March 25, 2003 from Conway Sheild, III, Esquire
- Vicinity Map
- Department of Game and Inland Fisheries Resolution
- Letter from William B. Ellen, dated August 14, 2003
- Proposed Resolution No. R03-154